



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

FEB 22 1999

Mr. Eugene Keller
Environmental Review Officer
National Capital Planning Commission
801 Pennsylvania Avenue, N.W., Suite 301
Washington, D.C. 20576

Re: Draft Environmental Impact Statement, National Harbor Project

Dear Mr. Keller:

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and Section 404 of the Clean Water Act, the Environmental Protection Agency (EPA) offers the following comments regarding the Draft Environmental Impact Statement (DEIS) for the proposed National Harbor project in Prince Georges County, Maryland.

Although the DEIS was publicly issued in December 1998, for reasons that remain unclear EPA Region III did not obtain a copy of the DEIS until February 6, 1999. Given this shortened review period, there was not sufficient time for EPA to conduct a thorough technical review. However, our abbreviated review has identified a number of significant deficiencies with the DEIS. Based on these deficiencies and because of the potential impacts described below, we have rated this document EO-2 (Environmental Objections, Insufficient Information) based on EPA's EIS rating scale (see enclosure). EPA recommends that you provide additional information prior to the issuance of a Final Environmental Impact Statement (FEIS). Our specific concerns are discussed in the paragraphs below.

Purpose/Need and Alternatives:

EPA has found that this DEIS unreasonably limits the range of alternatives considered for meeting the objectives of economic development and regional tourism. The discussion of the three alternatives are based on the premise that the project site will be used for a mix of medium to high density retail, hotel, and commercial uses in the future, and would not be suitable for any other activity. Although the DEIS states that the site would eventually become urbanized in the future, even without the project, we believe that other alternatives need to be further investigated, including those which offer less environmentally intrusive means for meeting the objectives.

Aquatic Resource Issues:

EPA has some concerns regarding the 27.63 acres of adverse impacts to the aquatic resources in Smoot Bay, especially due to the presence and potential for future establishment of submerged aquatic vegetation (SAV) in the subject area. SAV and shallow water habitat will be

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IN REPLY REFER TO
NCPC File No. 0424

FEB - 4 1999

Mr. Richard V. Pepino
Director
Office of Environmental Programs
EPA Region 3
1650 Arch Street
Philadelphia, PA 19103

FEB 08 1999

Dear Mr. Pepino:

Thank you for your letter of February 2, 1999, concerning the draft environmental impact statement on the proposed National Harbor project. The Commission appreciates your involvement in this important development project.

Commission staff has contacted Mr. Ralph Spagnolo, in your office, as follow-up to your letter. Detailed discussion by Mr. Spagnolo with Commission staff finds the EPA review is being pursued quickly and that his support staff requires a minimum of five additional days to complete their analysis.

The Commission appreciates your office's responsiveness and believes the importance of the EPA Region 3 review justifies the five days required. We will anticipate receiving your comments on or about February 16, 1999.

If you have any further questions concerning the environmental impact statement process, please contact Eugene Keller, in the Office of Plans Review, at (202) 482-7251.

EXECUTIVE DIRECTOR
Reginald W. Griffith

Sincerely,



Reginald W. Griffith
Executive Director

adversely impacted by four main project activities: dredging, filling, shading, and increased boat traffic. SAV provides vital spawning grounds for economically important finfish populations, and serves as an important shelter area for several aquatic organisms.

Shallow water areas provide habitat for benthic organisms as well as juvenile finfish. These organisms enhance water quality through assimilation of pollutants, including nutrients, and further benefit the marine environment by acting as a basis for the food web. Aquatic plants and algae inhabiting shallow water areas provide oxygen to the environment through photosynthetic activity. Many bottom species of plants and algae are dependent upon shallow waters to allow transmission of solar radiation. Increased turbidity caused by propeller action reduces or eliminates incoming solar radiation and thus eliminates the beneficial contributions of these organisms.

The proposed adverse impacts to the aquatic environment are discussed from pages 4.3-61 to 4.3-74 in the DEIS. There are several statements in this section that refer to altering or changing habitat. This needs to be further documented with more details. For example, the DEIS refers to new types of dredging techniques that reduce the resuspension of sediments. What are the techniques? How are they going to be used? How much will they cost? The development of Smoot Bay will create permanent changes from activities such as boating, dredging, filling and shoreline alteration in the Smoot Bay. Therefore, the types of alterations need to be fully explained in detail, and minimization and mitigative efforts need to be more specifically discussed.

Air Quality/Transportation Issues:

EPA needs additional information presented that would show that the project sponsor has coordinated with the transportation planners at the Washington Council of Governments (COG) and that they have addressed transportation conformity requirements. This information would consist of a project level analysis that shows that this project and its associated roadway modifications will be in concert with other regional projects, and will not impede the attainment of the National Ambient Air Quality Standards as detailed in the Conformity rule.

We need information and analyses that show that all roadway expansions and modifications that are taking place as a result of this project will not create local violations of the Carbon Monoxide (CO) standards. This requires that potential areas be modeled for CO concentrations as a result of increased vehicle activity.

Environmental Justice Issues:

The Environmental Justice review and analysis contained in the DEIS for the proposed National Harbor Project is inadequate. A more complete and comprehensive Environmental Justice analysis is required. It is recommended that a comprehensive public participation and

outreach plan be developed and modeled after "The Model Plan for Public Participation" developed by the National Environmental Justice Advisory Council. As presented, there is no clear plan of action designed to appropriately and meaningfully involve the target communities. Effective public outreach and participation could be used to obtain critical information required on minority businesses which has been identified in this document as being inadequate.

The plan needs to comprehensively evaluate all potential impacts upon the community in an objective manner. Impacts associated with construction activities, vehicular emissions, increased truck traffic, etc., need to be considered in detail. Potential impacts upon businesses should be included in this document.

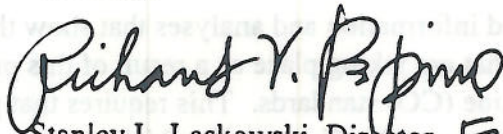
Documentation needs to be supplied in support of the suggestion that the positive impacts of this project would counterbalance the negative impacts (Section 4.1.5.1). Please present the data that will substantiate these claims. There should be some meaningful evaluation and discussion of both the negative and positive impacts in greater detail.

Please provide documentation and justification for the statements appearing in Section 4.1.5.1, indicating that "Impacts to this area, however, are not disproportionate when compared to those impacts experienced in other nearby areas. Any area directly adjacent to a proposed project of this magnitude, regardless of racial or income composition, would be affected by the construction and operation of the project." How are these impacts determined to not be disproportionate? What are the impacts? What is their magnitude upon the community? How are the impacts upon this and other communities to be quantified?

Because of the above noted deficiencies, we recommend that further information be provided in the FEIS which addresses our concerns. Until such information is provided, a final position on the impacts of the alternatives studied in this DEIS cannot be reached.

Thank you for the opportunity to offer comments on this DEIS. If you have any questions, please contact Mr. Richard V. Pepino of my staff at (215) 814-2703.

Sincerely,



Stanley L. Laskowski, Director FM
Environmental Services Division

Enclosure

LETTER REPORT

CEQ Number: 990131	Action Code: F	ERP Number : NCP-D61050-MD
Rating: EC1	Individual Extension Date:	EPA Comment Letter Date: 05/24/99
Summary Paragraph of Comment Letter (for Federal Register): EPA has concerns regarding impacts to aquatic resources, air pollution and environmental justice issues. EPA is trying to resolve some of the outstanding issues with the applicant.		

Save and Exit



CEQ # 990131
ERP # F-NCP-D61050-MD

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
MAY 24 1999

Mr. Eugene Keller
Environmental Review Officer
National Capital Planning Commission
801 Pennsylvania Avenue, N.W., Suite 301
Washington, D.C. 20576

Re: Final Environmental Impact Statement, National Harbor Project

Dear Mr. Keller:

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, and Section 404 of the Clean Water Act, the Environmental Protection Agency (EPA) offers the following comments regarding the Final Environmental Impact Statement (FEIS) for the proposed National Harbor project in Prince George's County, Maryland.

Purpose/Need and Alternatives:

EPA has found that the FEIS continues to inappropriately limit the range of alternatives considered for meeting the local objectives of economic development and regional tourism. The discussion of the three alternatives presented is based on the premise that the project site will be used for a mix of high density retail, hotel, and commercial uses in the future, as called for in local land use plans, and would not be suitable for any other activity. Though we understand your basis for limiting consideration of lower density alternatives (i.e., because they did not conform to the County's authorized land use plans), we must point out that, as required in NEPA implementing regulations issued by the Council on Environmental Quality (40 CFR Part 1500), a potential conflict with local (or federal) law does not necessarily render an alternative unreasonable. All reasonable alternatives must be considered, with the emphasis on "reasonable" rather than on whether the proponent or applicant likes or is capable of carrying out a particular alternative.

Comparing the preferred alternative to Port America is understandable; however, that particular proposal also had the potential for causing considerable adverse environmental impacts. Other alternatives would appear to exist that would further minimize the adverse impacts to the environment. Pages B-20 through B-32 of the FEIS responds to our DEIS comments regarding alternatives. Although the FEIS compares a hypothetical example ("Response Scenario") which reduces the scope of the preferred alternative by 50%, other options could have been explored in greater detail to allow for a valid comparison of impacts. NEPA requires that other scenarios be discussed reflecting different and reduced site build-out options on the preferred site.

Celebrating 25 Years of Environmental Progress

Aquatic Resource Issues:

EPA continues to be concerned regarding the 27.63 acres of adverse impacts to the aquatic resources in Smoot Bay, especially due to the presence and potential for future establishment of submerged aquatic vegetation (SAV) in the subject area. SAV and shallow water habitat will be adversely impacted by four main project activities: dredging, filling, shading, and increased boat traffic. SAV provides vital spawning grounds for economically important finfish populations, and serves as an important shelter area for several aquatic organisms.

The projected adverse impacts to the aquatic environment are discussed in the FEIS and several issues related to dredging have been addressed. However, the extent of dredging and the amount of boat traffic that will exist in Smoot Bay has not been reduced from the original plan written in the Draft Environment Impact Statement (DEIS). The amount of shading and resuspension of sediments from boats will adversely impact vital aquatic habitat. Therefore, we still believe there will be unavoidable adverse impacts to the aquatic resources of the Potomac River and Smoot Bay. A mitigation plan has been developed to offset permanent damage to aquatic resources. However, a potential still exists for long term direct and cumulative impacts to these resources because of increased boat traffic.

Air Quality/Transportation Issues:

EPA remains concerned about Washington Metropolitan area transportation needs and issues, including the cumulative impacts from a variety of transportation and development projects. There are many complex issues involved which may be beyond the scope of this EIS to address. However, implementation of the National Harbor project as currently envisioned surely will not ease any of these concerns, and may well exacerbate some of them.

It is our understanding that the projected impacts to Washington Metropolitan area air quality caused by the National Harbor project will be reflected in the conformity determination of next year's Transportation Improvement Program and Long Range Plan. If this assumption is not valid, we will request a reexamination of the projected net increases in emissions associated with this proposal.

In any case, as stated in our DEIS comment letter, EPA needs additional Carbon Monoxide (CO) hot spot modeling to be performed, with additional CO receptors located at the intersections in locations around the project that will experience increased traffic activity as a result of project implementation. This will document whether roadway expansions and improvements proposed to accommodate this project will create local violations of the CO standards.

Environmental Justice Issues:

The Environmental Justice review and analysis conducted for the Proposed National Harbor Project continues to be inadequate. There should have been a more comprehensive statistical analysis conducted by the applicant for their Environmental Justice analysis utilizing a number of different statistical methodologies. It would have been useful for a more complete description of the public out-reach and participation efforts to have been incorporated into the body of this document. More complete detail regarding these activities, contact made, procedures used, and public response to those efforts would have been both informative and useful for future work in the community.

Also, the Environmental Justice portion of the plan still does not address potential impacts upon the community in a manner that provides documentation that no one is being disproportionately impacted. Some information or objective data should be used for this purpose. Potential impacts upon businesses already operating in the area are still not addressed. Our comment from the DEIS regarding positive and negative impacts of the proposed project was not adequately addressed. The comment was as follows: Documentation needs to be supplied in support of the suggestion that the positive impacts of this project would counterbalance the negative impacts (Section 4.1.5.1). Please present the data that will substantiate these claims. There should be some meaningful evaluation and discussion of both the negative and positive impacts in greater detail.

Additionally, a comment stated by EPA in our response letter to the DEIS remains unchanged and has not been adequately addressed. That comment was: Please provide documentation and justification for the statements appearing in Section 4.1.5.1. indicating that, "Impacts to this area, however, are not disproportionate when compared to those impacts experienced in other nearby areas. Any area directly adjacent to a proposed project of this magnitude, regardless of racial or income composition, would be affected by the construction and operation of the project." How are these impacts determined to not be disproportionate? What are the impacts? What is their magnitude upon the community? How are the impacts upon this and other communities to be quantified?

There is no information provided to justify the statements appearing in the final paragraph of section 4.1.5.1 of the FEIS, which reads in part, "The project would generate positive impacts in the form of indirect employment growth and spin-off economic activity that could provide job opportunities to low-income persons, regardless of minority status." "The construction of the proposed waterfront development could provide temporary employment for residents within the study area." "The proposed project is likely to create new permanent positions in entertainment, hospitality, and marine-related industries, and may generate spin-off employment opportunities in the private sector service and hospitality industries." "These positive direct and indirect economic benefits would also increase the income levels of residents who choose to work in these sectors." In addition, the proposed project would increase the

potential customer base for existing minority businesses." It is hoped that some type of concrete information and tangible documentation of efforts be provided that demonstrate serious efforts to assure that the citizens of this community are appropriately engaged in training, job search, and sustainable community development activities that include the residents in projects and plans designed to benefit this community. Too often, minority and low-income residents are either omitted from such efforts, or are represented in the most marginal way. There must be a firm commitment to include those who are traditionally left out in this process.

In closing, the Final EIS for National Harbor provides additional information and explanation in response to comments raised by EPA on the Draft EIS. However, we remain concerned that implementation of the current proposal will cause unavoidable adverse environmental impacts, and that other reasonable alternatives with less impact were not fully explored. In addition, we remain in doubt as to whether certain communities may be disproportionately affected by construction of the project as now proposed.

Thank you for the opportunity to offer comments on this FEIS. If you have any questions, please contact Mr. Ralph Spagnolo my staff at (215) 814-2718.

Sincerely,


Stanley L. Laskowski, Director
Environmental Services Division

